

Hearing Date: May 21, 2019 at 10:00 a.m.
Objection Deadline: May 14, 2019 at 4:00 p.m.

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION, *et al.*,

Debtors.

)
) Chapter 11
)
) Case No. 18-23538 (RDD)
)
) (Jointly Administered)
)

**APPLICATION OF NATIONAL GRID PURSUANT TO SECTION 7
OF THE ORDER (I) APPROVING DEBTORS' PROPOSED FORM
OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY PROVIDERS,
(H) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE
ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, AND
(III) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING,
OR DISCONTINUING UTILITY SERVICE [DOCKET NO. 461] FOR
PAYMENT FROM THE ADEQUATE ASSURANCE ACCOUNT**

National Grid, by counsel, for its Application pursuant to Section 7 of the *Order (I) Approving Debtors' Proposed Form Of Adequate Assurance of Payment To Utility Providers, (II) Establishing Procedures For Determining Adequate Assurance of Payment For Future Utility Services, and (III) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Service* [Docket No. 461] (the "Utility Order"), states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334(b) and 11 U.S.C. § 366(c).
2. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A).
3. Venue of this Motion is proper in this district pursuant to 28 U.S.C. § 1409.

Procedural Facts

4. On October 15, 2018 (the "Petition Date"), the Debtors commenced their cases under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") that are now pending with this Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.
5. The Debtors' chapter 11 bankruptcy cases are being jointly administered.
6. On October 18, 2018, the Debtors filed the *Motion of Debtors Requesting Entry of an Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment To Utility Providers, (II) Establishing Procedures For Determining Adequate Assurance of Payment For Future Utility Services, and (III) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Service* (the "Utility Motion") (Docket No. 196).
7. On November 5, 2018, the Court entered the Utility Order approving the Utility Motion.

8. According to Exhibit 1 to Exhibit 2 to the Utility Order (Pages 99 through 101), the Debtors placed \$139,946 into the Adequate Assurance Account for National Grid.

9. Section 7 of the Utility Order provides:

If the Debtors fail to pay a utility bill when due (including the passage of any cure period), the relevant Utility Provider shall provide notice of such default to the Debtors, and if within five (5) business days of such notice the bill is not paid, the Utility Provider may file an application with the Court certifying that payment has not been made and requesting the amount due up to an aggregate maximum equal to the Adequate Assurance Deposit allocable to such Utility Provider.

Default Notice Issued By National Grid

10. On March 29, 2019, National Grid, by counsel, issued a default notice to the Debtors pursuant to Section 7 of the Utility Order for the following invoices that remain unpaid:

- a. \$413.33 invoice on the account ending in 0025, with \$189.20 past-due, and the entire \$413.33 due on April 4, 2019;
- b. \$3,739.55 invoice on the account ending in 0012, with \$1,658.27 past-due, and the entire \$3,739.55 due by April 12, 2019 (A \$2,081.28 payment was received on April 11, 2019, leaving a balance due of \$1,658.27);
- c. \$8,468.47 final invoice on the account ending in 1110, with \$5,128.92 past-due, and the entire \$8,468.47 due upon receipt (A \$5,128.92 payment was made, leaving a balance due of \$3,339.55);
- d. \$22.70 final invoice on the account ending in 5116, with the entire \$22.70 due upon receipt;
- e. \$6,655.16 final invoice on the account ending in 5118, with the entire \$6,655.16 due upon receipt; and
- f. \$641.96 final invoice on the account ending in 3118, with the entire

\$641.96 due upon receipt.

11. The past-due charges set forth in paragraph 10 above total \$12,730.97.

12. Attached as Exhibit 1 to this Application is the Declaration of Vicki Piazza stating that the amounts due have not been paid as of the date of her Declaration.

WHEREFORE, National Grid respectfully requests that this Court enter an order:

A. Requiring the Debtors to immediately tender payment to National Grid in the amount of \$12,730.97 from the Adequate Assurance Account for the past due post-petition invoices listed in paragraph 10 of this Application; and

B. Providing such other and further relief as the Court deems just and appropriate.

Dated: Garden City, New York
April 16, 2019

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

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